

**REMARKS**

Applicants respectfully requests reconsideration of this application as amended. Claims 1-6 have been canceled; claims 7, 19-22, 23, and 27-30 have been amended; no claims have been added. Therefore, claims 7-30 are presented for examination.

**112 Rejections**

The Examiner has rejected claims 19-22 under 35 U.S.C. §112, first paragraph, because the apparatus only has a single element "circuitry", which is not capable of doing things without cooperating with other computer elements and thus is interpreted as a single means/single step claim under MPEP 2164.08(a).

While Applicants disagree with the Examiner and believe that such rejection does not apply to the claims in question, Applicants have amended the claims in order to facilitate prosecution of the subject application. Consequently, claims 19-22 have been amended under protest. Since it is believed that such amendment to the claims overcomes the Examiner's rejection, Applicants respectfully request that the rejection of claims 19-22 be withdrawn.

**101(e) Rejections**

The Examiner has rejected claims 27-30 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory matter.

Claims 27-30 have been amended under protest in order to facilitate

prosecution of the subject application, and it is believed that such amendment to the claims overcomes the Examiner's rejection. Consequently, Applicants respectfully request that the rejection of claims 27-30 be withdrawn.

### Rejections

The Examiner has rejected the pending claims under 35 U.S.C. §102(b) and 35 U.S.C. 103(a) over various combinations of U.S. Patent No. 6,421,809 (hereinafter "Wuytack"), and U.S. Patent No. 5,774,730 (hereinafter "Aizikowitz").

Neither Wuytack nor Aizikowitz, individually or in combination teaches, discloses, or suggests, at the least, "creating a conflict graph based on the sequence of machine-executable instructions", as required by each of the pending claims as amended.

The Examiner points out that Wuytack discloses "an iterative procedure, starting from an initial scheduling of said data access instructions" (Wuytack, column 4, lines 35-37). Indeed, Wuytack does disclose scheduling data instructions; however, the data access instructions of Wuytack do not amount to "machine-executable instructions", as required by the pending claims as amended. Wuytack discloses that the data access instructions describe the operation of an essentially digital system (emphasis added, Wuytack, column 1, lines 23-26), and that the data access instructions are a representation "of the functionality of said digital device, which is under construction" (Wuytack, column 2, lines 59-61).

Furthermore, Aizikowitz does not teach, disclose, or suggest the element that is missing from Wuytack. In Aizikowitz, an interference graph is generated,

and the "compiler then assigns a physical CPU register to each color, and transforms the intermediate language instruction stream into the machine code instruction stream" (Aizikowitz, column 7, lines 30-34). In other words, machine-readable code is not even generated until after the interference graph is created, and therefore, the interference graph of Aizikowitz is not "based on the sequence of machine-executable instructions" as required by the claims.

Since neither Wuytack nor Aizikowitz teaches, discloses, or suggests, individually or in combination, each and every element of the claims, the Examiner has not established a prima facie case of anticipation or of obviousness. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of pending claims 7-30.

### **Conclusion**

Applicants respectfully submit that the claims as amended are in condition for allowance. The Examiner is invited to initiate an interview with the undersigned by calling 949-498-0601 if the Examiner believes that such an interview will advance prosecution of this application.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 50-0221.

Respectfully submitted,

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